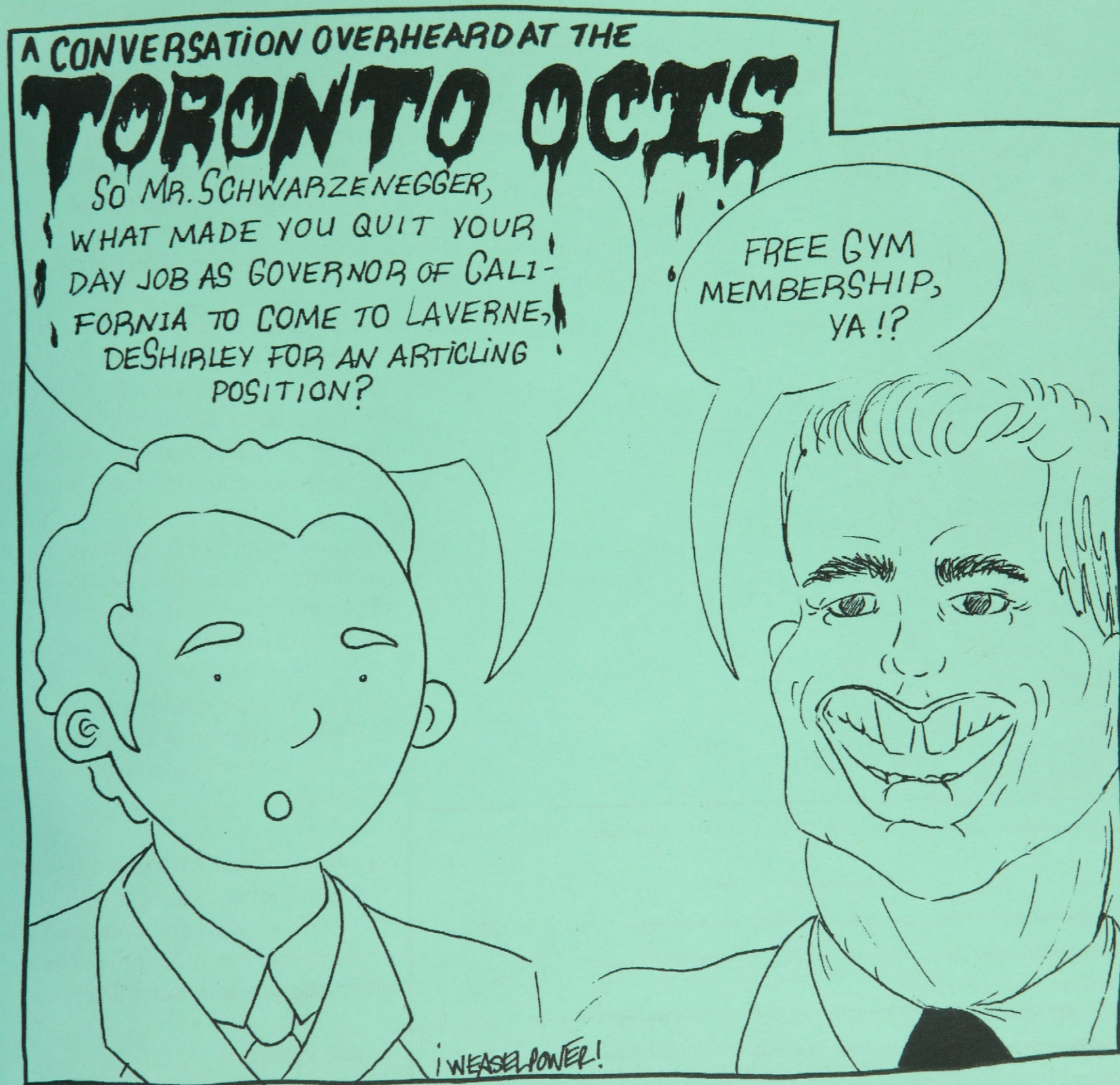


QUID NOVI

McGill University, Faculty of Law

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QUID NOVI

3661 Peel Street
Montréal, Québec
H2A 1X1
(514) 398-4430
www.law.mcgill.ca/quid

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Olivier Plessis

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Laurence Bich-Carrière

Cover Artist

Isabelle Cadotte

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Erratums, forgive us

by Andrea Gorys
Co-Editor in Chief

Alison and Léonid, please forgive us!

In last week's issue, some of you may have noticed something strange about the ending of Alison Glaser's Sunshine Article, the article went from something lighthearted to something much more profound. That's because part of Léonid's article got pasted on right after it, with no beginning and no end.

We had a layout malfunction!

I just wanted to take this space and opportunity to apologize on behalf of the Quid Novi. We try hard to get all of your articles edited, put into layout and published on time; however, we are human, and mistakes happen.

So to try and make it right, we are republishing Léonid's thoughtful article from last week, in its entirety, starting on page 15.

Alison's regular weekly - make you feel good - column is also present. But they are both separated! We promise!

Thank you again Alison and Léonid for contributing to the Quid Novi your unique styles and opinions. We really appreciate it. You make us smile and you make us think!

Thank you again.

This issue is humbly dedicated to Alison Glaser and Léonid Sirota.

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The content of this publication does not necessarily reflect the views of the McGill Law Students' Association or of the McGill University.

Envoyez vos commentaires ou articles avant jeudi 5pm à l'adresse: quid.law@mcgill.ca

Toute contribution doit indiquer l'auteur et son origine et n'est publiée qu'à la discrétion du comité de rédaction, qui basera sa décision sur la politique de rédaction telle que décrite à l'adresse: <http://www.law.mcgill.ca/quid/epolicy/html>.

Contributions should preferably be submitted as a .doc attachment.

THE OCI PREGAME SHOW

October 11, 2006

by Ryan Kirshenblatt (Graduate Student)

Since I was a kid, fall had a distinct smell. Not sure where it came from, but I loved it. Since law school though, fall gained another distinct smell. Some might argue it's more a stench. Whatever it is, it's bound to have noses high in the air. Yes fans, the annual ritual has arrived. OCI's are upon us. While I understand you've been inundated with resume clinics, cover letter seminars, and tips on how to make a good interview impression, there are just some things you can't learn until you've actually gone through the process. It's a funny thing about experience - you only get it after you need it. The most I had walking in was my CDO's screening of "The Genuine Article" - a documentary about Toronto OCI's. Taken with a grain of salt, it was amusing.

I was part of the OCI Draft Class of 2003. The CDO at the University of Toronto had sent out our interview list. I was fortunate to have a busy schedule of firms to meet, and that was not so much for employment being a numbers game, as it was about seeing just what

kind of people are out there. The kind that you'll be working with, working late with, and if you become a litigator, the kind you'll be working against someday. Mind you, there's one other great perk to meeting many firms - if you're running low on office supplies, now is the opportune time to stock up! Highlighters, clipboards, pens, pads of paper, even travel mugs; it's all there for the taking. Try and get an interview with Goodman and Carr - you'll appreciate their backpacks to carry it all.

I asked Stikeman Elliot about who dreams up what promotional hand-out they'll distribute during interview season. They didn't see that question coming. Some places outdid themselves, and others, like Torys, went with classy standards combining pen and paper. Goodmans was particularly lame. They gave out Halloween candy, probably from the year before. Nothing like walking into your next interview with caramel stuck on your teeth. Heenan Blaikie gave out a ball that I wanted to throw at my interviewers. But the real

pièce de resistance was the Cassels Brock multi-tool. Among law students polled that day, it was their favourite swag.

This thing was the firm's equivalent to a Swiss Army knife. It had a compass, a ruler, a blade, a bottle opener, everything. When I received mine in my interview, I was unsure how to interpret it. Was the knife to slit my wrists at the thought of working there? Was the compass their way of telling me to get lost? How often would I be using the bottle opener on the job out of necessity? I declined seeking those answers during the interview's "what do you want to know about us?" portion.

Sure the firms are judging you, but don't feel you have to campaign to them about why you're wonderful and should work there. Know the difference between selling yourself and looking desperate. It's an interview, not an election year. Remember, they already have your transcripts and know how smart you are. It's just a personality contest now.

Be flexible and adaptable. You may encounter very different interview styles, or no style at all. Some firms use the tag-team approach, others, the lone interrogator. Oslers used three in my year, which took me by surprise when I walked through the curtain. Like in any card game, you play the hand you're dealt. Some firms sit behind the table, others in front of it. Remember, the firm must appear 'collegial', lest their summer student website be fraudulent! The closeness may prompt a session of Kumbaya. Whatever extracurricular interest you have on your resume that makes you stand out - they will ask you about it.

Some interviews will be very structured. They'll ask you questions about your law school experience, why you chose the school you did, what kind of work you're looking for, and my personal favourite, "Why are you interested in our firm?"

I will buy a pitcher for whoever will answer that question with the following: "You know Rob, you're all pretty much the same. I have loans to pay and you have due dili-

gence to be done and photocopies to be made. You all offer me a collegial environment and high caliber work, I know. I just need a job, and your salary is the same as everyone else's. I'd blow you off for a New York firm, but until they come through I'll settle for yours."

I recall one interview where there was no structure at all. I walked into the room, and the interviewers said "Hey," and introduced themselves. They're Gold Medalists and this was the best they could come up with. They expected me to carry the entire conversation and keep it going. So we spoke about college football for 20 minutes. I really didn't care. These stories do happen - some of your interviews won't feel like one at all. Don't

be intimidated by your interviewers, no matter what. At one point, they were clueless summer students too.

I was also amazed at the power of apathy. On my very last interview of Day 2, with Miller Thomson, I just ran out of gas. Tired of answering the same questions over and over again, tired of asking ones for which I didn't care about the answer. I just spoke to the interviewer off the cuff, from the hip, almost aloof. I got a callback from them. Don't ask my why. I was a comedian with Fraser Milner and they called me back too, in spite of my asking "So, who's the funniest lawyer in your office?" I genuinely wanted to know - because any firm that can't answer that question isn't a place where I want to work.

Aird and Berlis was a very personable firm. They knew their office prankster. They also called me back.

I wish I could do regression analysis to tell you exactly what factors make for a good interview and likelihood of a callback, but I can't. OCI's at the end of the day are about meeting people. Some you like; some you can't stand, for reasons beyond your control. If you won't change yourself to hang out with a different group of friends, why should you be any different when it comes to where you'll work? You may be able to keep up the façade for a summer, maybe during articling, but not forever.

My best advice is to just have as much fun as you can with the process. Don't take it so seriously,

and moreover, don't take yourself so seriously either. If you're thrown a curve, hit it up the middle. Remember that you attend a great law school and you will be hired somewhere. So stop worrying as if this is your only chance to work as a lawyer. Practicing law at a big firm is the exception for the profession and not the rule, and don't let the CDO suggest otherwise. There are benefits to working at a large office, I won't lie, but it's not the only game in town. The firms are all looking for someone in particular, and you may not be it. In fact, you should be just as selective as they are. Summer students are a dime a dozen? Sure. But so are big law firms.

That's why I ended up at a small one ■

Law Limerick IV

by Francie Gow (Law III)

A med student asked of her dean
Why law students were ne'er to be seen
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DeCOMMISSIONING LAW REFORM AGAIN - ONE MORE BAD IDEA

by Nathalie Des Rosiers and Roderick Macdonald, Former Presidents, Law Commission of Canada

On Monday September 25 the Harper government announced the elimination of several spending programmes and the closure of several independent agencies - including the Law Commission of Canada. As former Presidents we cannot let this decision pass without comment.

Many will write about what they see as the real (hidden) motivations for closing the Commission. We have a different point to make. It can be summarized as follows. Mr. Harper, if you don't like the work of the Commission, fix the problem; don't repeat the mistake of the Mulroney government in 1992. Here are four reasons why you should reconsider your decision.

First, the Law Commission of Canada was established in 1997 following three years of intensive Canada-wide consultations as to whether a permanent, independent law reform agency should be re-established. These consultations involved judges, members of the

legal professions, more than eighty non-governmental organizations, university professors, business groups, trade associations, unions and the broader public. The result was the enactment of the Law Commission of Canada Act, a law passed with broad non-partisan support that included the Progressive Conservative Party, although not the Reform Party.

Through its precipitous action on Monday, taken without forewarning, consultation or debate, this government displayed contempt for Parliament (which enacted the Law Commission Act and to whom the Commission reports) and the Canadians who participated in these consultations.

Where is the open government that was promised in January?

Paradoxically, not only has the government not kept its promise, it has abolished an independent organization that has acquired a world-wide reputation for the quality and breadth of its processes of public consultation!

Second, it is important

not to lose sight of the substantive work that the Law Commission has accomplished since its founding, and of its efforts to ensure that all citizens - and not just the lobbyists - have an effective opportunity to discuss, criticize and reform the law. Since 1997 the Commission has organized hundreds of public events and consultations on the state of the law in Canada; on improvements that should be made; and on emerging issues in public policy. It has established activities that reach beyond the usual participants by organizing essay contests for High School students. It has supported independent research by networks of scholars on key contemporary issues in law such as the vulnerable elderly, relationships between aboriginal and non-aboriginal peoples, globalization, new forms of commercial financing, public and private policing, marginalized workers, new family relationships and electoral reform. This public participation and research has resulted in discussion papers, documents setting

out policy options for the Department of Justice and reports to Parliament - all aimed at improving Canadian law.

The Harper government suggests that this kind of law reform work can be done more efficiently by the Department of Justice and the Canadian Bar Association. There is no doubt that the Department of Justice has the leading role to play in formulating governmental policy into law. So too the CBA is an important body for ensuring the quality of Canadian law. But these two institutions are not always best placed to engage in long-term fundamental research about problems with Canadian law: the Department because it must focus on pressing questions that require a rapid policy and legislative response for the government of the day, and the CBA because it has limited resources and because, as an organization with a mandate to represent Canadian lawyers, its focus will be on solutions to problems that are of most concern to the legal professions. We are not

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claiming that either of these institutions is ineffective. Rather, that there is more to law reform than their mandates address. Indeed, dozens of countries worldwide have reached this conclusion - including Australia and the UK where the conservative governments of Mrs. Thatcher and Mr. Howard both decided that independent Law Commissions should be retained.

The third reason why the Harper government should abandon its plan to close the Law Commission is that it will isolate Canada internationally.

Canada has been a member, along with sixty other countries on five continents (the U.S., South Africa, New Zealand, Bangladesh, England, Australia, Hong Kong to give some examples) of a network of Law Reform agencies that assist governments in responding to central challenges of the

rule of Law and systemic problems in legal systems: access to justice, adaptation to new technologies, globalization, changing labour markets, and so on. It is hard to believe that this model for helping to ensure the accessibility, effectiveness, responsiveness and justice of law has no place in Canada. Moreover, with an announced surplus of 13 billion dollars, it is hard to believe that Canada cannot afford the Commission's annual 3.2 million dollar cost (one of the lowest of any Law Commission in the world).

Recall that Canada already had a Law Reform Commission between 1971 and 1992, until it was abolished (ostensibly to save money and because its tasks could be performed just as well by the Department of Justice) by the Mulroney government. Five years later, following extensive

public consultations by the government, Parliament concluded that Canada could not live without a Law Commission. It takes no great foresight to predict that within a few months or a few years, the government and Parliament of Canada will again feel the absence of a Law Commission and will again be obliged to re-establish such a body. What a waste of time, energy and money to decommission and then have to re-commission law reform.

Closing the Law Commission is unwise for still another reason. Since 1997, the Law Commission of Canada has become a model for best practices in law reform - especially as these involve citizen engagement, consultation and transparency of its processes -- throughout the world. Should the Commission be eliminated, Canada will go from being a

country that boasts one of the world's finest such bodies to one that has no federal Law Commission at all. This is hardly an effective way of maintaining Canada's reputation as a leader in promoting the Rule of Law among the international community.

Mr. Harper, if you really don't wish to use the Law Commission effectively to improve Canadian law for all Canadians, we challenge you to put your decision to a vote in Parliament by introducing a bill to repeal the Law Commission of Canada Act. After all, the Commission is a creature of Parliament, not the Cabinet. Let's see what members of Parliament, as representatives of all Canadians from coast-to-coast, think about your idea ■

C'est notre prochain premier ministre et il se balade librement dans les couloirs de la faculté! Qui est-ce?

Réponse dans le prochain Quid Novi par Marguerite Tinawi

Do you want to learn more about wine?
Do you want to have a good time with friends?
Do you want to have the best variety of wine for
your buck?



WINE TASTING



Organisée par le Club de dégustation de vin de la
Faculté de droit

Quand
Mercredi 11 octobre à 19h30

Où
Sous-sol de Thomson House (restaurant)

Combien
15\$ pour les membres, 20\$ pour les autres

Devenir membre
12\$ pour l'année
(étudiant(e)s en droit seulement)
inclut le livret du Club

RSVP
vino.mcgill@gmail.com

Prix Gulrajani-Casullo du meilleur rapport qualité-
prix

Awarded at the September 26th tasting
Cabernet-sauvignon Kenwood Yulupa Sonoma Cal-
ifornia 2001

SAQ code: 00862953, price: \$18.35

THE SQUARE: ON MY SOAP BOX

By Nicholas Dodd (Law II)

As everyone in this Faculty can attest to, there never seem to be enough hours in the day. I wake up bright and shiny with a list in my head entitled: "Things I Would Reasonably Like to Accomplish Today, Barring any Unforeseen Events or Invitations Which Cannot Possibly be Turned Down". Rarely, however, does the end of the day find me with most, or, indeed, any, of these tasks completed, despite the lack of any "Unforeseen Events" or "Invitations Which Cannot Possibly be Turned Down" – which is a bit upsetting, seeing as how many of my greatest adventures have resulted from one of these two things... Perhaps I'm getting older. This extended and completely useless preamble is really trying to say nothing more than this: I wrote this article in 45 minutes (of which a half hour is remaining – things are not looking good) so if the arguments have holes (as I'm sure they do) and if the grammar is bad (though I prefer the term 'unique') please do not think less of me.

Not only are we under a tight time constraint here,

but I have also decided to do something that the Square has, in the past, generally avoided doing. That is, I will be discussing a Matter of Importance. So if you use the Quid as an escapist device, and feel that sometimes you are better off not hearing others bitch and moan about the state of the world, stop reading now ...

It has come to my attention over the past several months that many of us around here are concerned about the environment. Forgive me if you feel misrepresented by my statements, but I get the feeling (ahh... blanket generalizations, the best way to make a point) that many of us generally support that there is a need to do a much better job, locally, nationally, and globally, of protecting the environment.

I could rattle off statistics about how bad things have become (remain?) until the cows come home: about how Canada is the second-largest producer of per capita carbon emissions; about how polar bears will soon no longer be with us (I believe 2030 is the latest estimate for

how long this element of our national identity will last); or about how, on a global level, a chunk of the rainforest as large as a medium-sized U.S. state disappears every year. The point is that while we all know these things, and while we are all concerned (again, I apologize for generalizing), we differ substantially in what we believe are the best means of addressing these problems.

(Ten minutes left – the clock is ticking)

The Kyoto Accord is dead in Canada and many people – in the press, in the streets, in these hallways – are blaming the Conservatives. They are the easy target and play the role of environmental villain well. Never mind the fact that if the two previous Liberal governments had done anything – had lifted one little finger! – to set Canada on a path to achieving its obligations, the Conservatives would never have been able to (effectively, if not officially) withdraw as they've done. Instead emissions rose to 35% above 1990 levels under the Liberals. Not only did they not reduce emissions,

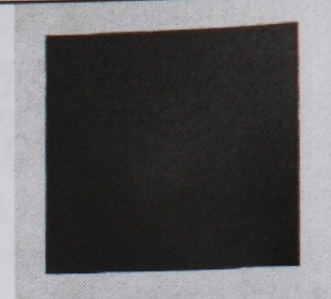
they let the problem get infinitely worse.

But this is not an article about the Kyoto Protocol or federal politics. This is about the choices we make everyday – in this faculty – that make a laughing stock of any declaration of Kyoto support. The styrofoam cups that litter our lecture theatres, the paper plates we toss away daily, the plastic, glass, and aluminum that is blithely thrown into the waste bin time after time after time.

How can we ask countries, the global community, or anyone, to make huge changes in their consumption patterns, and fundamentally alter their lifestyles? We cannot even bother to bring our own coffee mug to school, or refuse to take yet another plastic bag every time we visit the *depanneur*.

(2 minutes left and our time dwindles to nothing)

In a lecture this afternoon Professor Akhavan spoke about the intellectual and emotional dangers of privileging distance over intimacy. I am struck by how well this statement applies here. We should not tell



ourselves that our actions are too small, that any change must come from a distance, from the top down in the form of Legislation. Change, if it does occur, must come from the bottom and top, from the sides, from every angle in

which we can imaginably assert our influence. Because standing here waiting while talking in platitudes about how great it would be if Kyoto were in place, or if fire-retardant chemicals that kill polar bears were finally

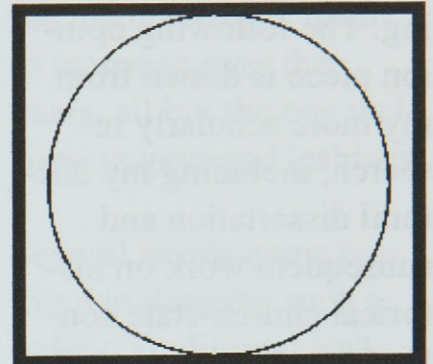
banned, means nothing if we cannot even make those infinitely small changes to our daily lives.

The argument is not that small changes can add up to big ones (though they may). It is that before we

ask society to change and sacrifice en masse we must be prepared to do so ourselves. As long as it is true that bringing a coffee mug to school is too much of a hassle, instruments like the Kyoto Protocol are doomed to failure■

THE CIRCLE: THE BACHELOR

by Olivier Plessis (Law II)



This past week, I attended my first ever bachelor party, which in some ways resembles a funeral of sorts. I half expected a priest to begin the evening with: We are gathered here to pay our respects to John Doe, former single man. Except that in this funeral, everyone gets blind drunk and the deceased gets one last chance to partake in the land of living. Bachelor partygoers are like the ferryman on the river Styx, accompanying the deceased on his last voyage of bachelorhood. But we are just as much there to provide comfort as we are there to be asinine reminders of why being a single guy is not as Budweiser commercial/Faculty of Management glorious as many believe. As we wake up with our hangovers and shameful memories of high-fiving way too many people the night before, the idea of a meaningful relationship

sounds comforting.

My first instinct is to assume that perhaps Bachelor parties are thus having the opposite of their desired effect - that is, I thought they were meant to spitefully rub the groom's face in the benefits of single life, not reinforce committed relationships. But then again, maybe the very reason bachelor parties are socially-tolerated despite their norm-bending behaviour (extra points for saying norm) is because the powers-that-be (i.e. the Catholic Church, women in our life, the military-industrial complex, Dean Kasirer, etc.) understand exactly the effect these parties have. Wallowing in their post-bachelor party stupor, the Groom and his friends wake up more beholden to the idea of finding lifelong partners, and society benefits with a whole swath of new recruits for its baby-making

division. If you want to discourage someone from certain activities or habits, what better way than forcing them to consume obscene amounts of that habit? It works when you force a thirteen year old to smoke the whole carton of cigarettes- So you like smoking, eh? Then you'll like smoking for the next 14 hours straight- so why shouldn't it work when you get men together to participate in an anachronistic smorgasbord of stereotypical male delights? Whiskey-drinking, cigar-smoking, stripper-ogling: gorge yourself on artificial masculinity for one night and then never go back.

Maybe this bachelor party model could be imported into other spheres. On the night before law school, friends not in law could take us out. Instead of strippers, they'll pay for conversations with strangers who are actually

interested in what we have to say about law. Come next morning, we'll never again feel the need to tell non-law people about Anselm.

But maybe I've got it all wrong with my functional analysis of bachelor parties - I have been told my analytical side is too active from years of playing Where in The World is Carmen Sandiego?. Bachelor parties are likely just an excuse for men to bond with each other and have a good time. Even if the Bachelor party is indeed a funeral, then the wedding is the rebirth- like dying a rat and being reincarnated as an obnoxiously cute puppy. And, of course, hangovers are shaken off quite easily come evening. As you remember seeing your friend wave goodbye to you from the ferry on the Styx, it might dawn on you that remaining in the world of the living is not without its charm■

OPINION PIECE

By Professor Leckey

Igather that, from time to time, students express interest in their professors' research and its links with their teaching. The following opinion piece is drawn from my more scholarly research, including my doctoral dissertation and subsequent work on historical church-state conflicts over marriage and the evolution of family law in the second half of the twentieth century. While I attempt to encourage suspicion about claims based on tradition in my Contractual Obligations class, the substantive connections with the family law course I'll be teaching in the winter term should be obvious.

Note: This article was written for and has been published in *The Globe and Mail* on October 5th.

The PM is not championing a tradition of marriage

The government of Canada will soon ask MP's whether they wish to reopen the debate on same-sex marriage. If so, the government will introduce legislation to restore what it calls the "traditional definition" of marriage. If not, Plan B

will be a Defence of Religions Act. It would let public officials refuse to perform same-sex marriages and shield religious leaders critical of homosexuality from human-rights complaints.

The marriage debate has consumed plenty of ink, but it's striking how uninformed that debate has often been. The two major political parties have framed the matter in black and white terms. For Paul Martin's Liberals, you either supported the Charter of Rights and equality or you opposed it. What matters today is that Stephen Harper and the Conservative Party of Canada invite citizens to stand for or against marriage's traditional definition. The Liberals made it all about the Charter; the Conservatives make it all about tradition.

I appreciate that for the Conservatives, invoking tradition saves a lot of trouble. It eliminates the need to identify real harm resulting from same-sex marriages, or to provide reasons for changing things back. The idea is that tradition is self-evidently good.

But this reliance on tradi-

tion overlooks two points. First, until quite recently, the rules governing marriage and their values would have appeared repugnant to us today. Second, the changes leading to the modern law of marriage have been made at regular intervals over the last century. Talk of the traditional definition wrongly implies a historical stability in marriage. Instead, the only tradition that can comfortably be claimed for marriage today is one of constant change.

Everyone acknowledges that in the distant past, marriage served social goals other than romantic, companionate love. But significant changes to the law of marriage are relatively recent. This is true across the country, but especially in Quebec.

For centuries, the law merged a married woman's legal personality into her husband's. She couldn't manage her own assets or make a contract. Her husband did, on her behalf. Married women acquired civil rights in Ontario and other common law provinces in the 1880's. Long enough ago to say that Canadian marriage "traditionally" re-

gards husbands and wives as equals? In Quebec, the change was made just over 40 years ago.

Traditional marriage in this country kept women in their place. Until the early 1980's, the criminal law denied the possibility that sex between husband and wife might be rape. Until the mid 1980's, traditional marriage punished unfaithful spouses. Adulterous wives were deemed to have waived their right to support. Adulterous husbands, in turn, could be ordered to pay onerous alimony.

Until the late 1970's and early 1980's, marriage law policed reproduction. Children born to married parents were legitimate. Children born to unmarried parents were bastards. For centuries, this regulation was a core function of traditional marriage.

Some of these changes - equal rights and obligations of spouses, no necessary link to reproduction - equip marriage to accommodate same-sex couples. Debates so far have neglected the high degree to which same-sex marriage was made possible not

only by battles for Charter rights, but also by changes in family law.

Conservatives occasionally acknowledge these reforms while struggling to salvage a traditional essence of marriage. Ethicist Margaret Somerville contends that before same-sex marriage, all changes to marriage had been merely collateral or secondary. By contrast, she argues, same-sex marriage is a change to marriage's inherent nature.

Though convenient, this distinction doesn't help much. The features I have

mentioned were not incidental, but deeply important to marriage's social and legal role. Each change provoked opposition and alarm that the entire institution of marriage, not just an incidental feature, was threatened. Sustaining the distinction requires believing that you occupy a superior position and see marriage more clearly than all past generations. It's not a particularly plausible or attractive stance.

Admittedly, unless the Conservatives really have a hidden agenda, their ambition is not to roll

back all the changes to marriage. I doubt they dream of punishing spouses for adultery or labelling the children of unmarried parents as bastards. What they mean by the traditional definition of marriage is the law as it stood just before same-sex couples won the right to marry. Constitutional lawyers agree that such a change would infringe the Charter of Rights and entail prolonged, costly litigation. It seems a funny objective for people who say they support families. Still, our elected politicians are entitled to try if they must.

What is incoherent and deceptive is packaging such efforts as a restoration of a lofty tradition of marriage. The prime minister and the Conservative Party of Canada aren't championing a tradition of marriage. They accept the many changes made to marriage over the years, all but the one welcoming gays and lesbians.

Several words come to mind to describe such a policy. Traditional isn't one of them ■

Got a Question for the Dean?

**Come to the Dean's Hot Seat
1:30pm Monday, October 16
in the Moot Court**

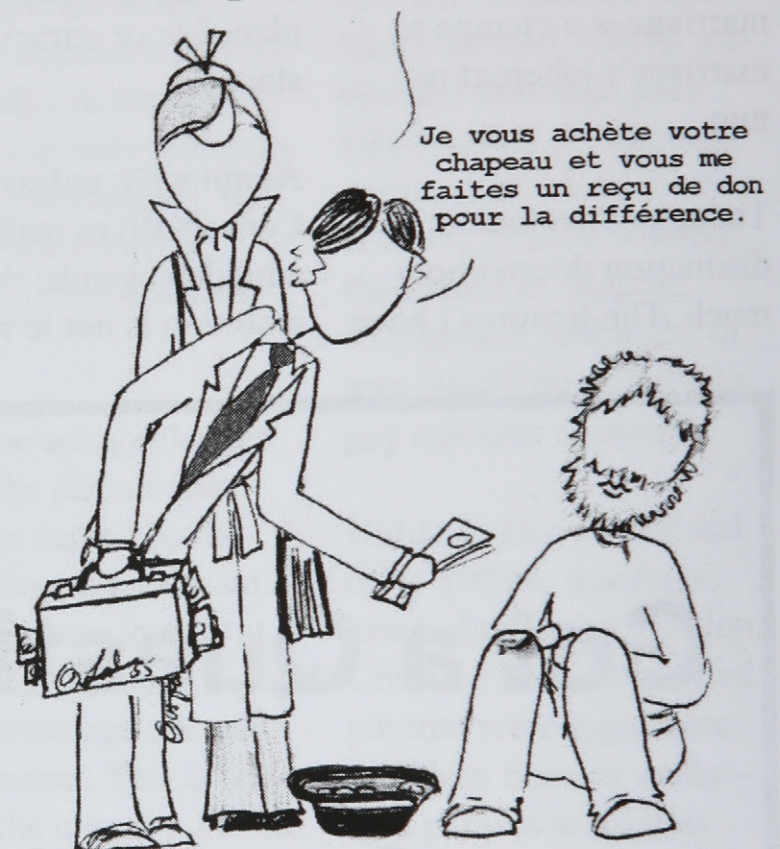
**Talk about Well-Being, Changes to the Faculty
and more.....**

LES AVENTURES DU CAPITAINE CORPORATE AMERICA: À votr' bon coeur (de Pierre)

by Laurence Bich-Carrière (Law III)



Voyons Sosumi. Il est tout à fait possible de promouvoir l'entrepreneurship tout en profitant du système.



*** Next CLUB'S COFFEEHOUSE ***

Come enjoy this week's coffeehouse with MCGILL HEALTH LAW PUBLICATION! Under the theme "Operation!", doctors and nurses will serve bloody marys, bloody ceasars and more... See you next

Thursday Oct 12 @ 4:30PM!

Pour plus d'information sur MHLP:

<http://www.healthlaw.mcgill.ca>.

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THE FAILURE OF COMMUNISM

by Jeff Derman (Law IV)

October 11, 2006

I have often heard the truism that "communism works in theory but not in practice."

'It would be quite nice if everybody just shared everything, worked diligently at something and took only what they needed from the global supply of goods, but in practice, people are too selfish and so people become lazy and the system does not work.'

However, in my opinion, communism does not so much fail in practice as in theory. What I mean is that communalism, or systematic sharing, is not only practicable, but it is practiced in many different social organisations, for very long periods of time with much success. What fails in communism (by which I mean Marxism in particular) is the soul-crushing neglect of things eminently human, in particular: beauty.

In terms of the practicality of a property-less society, consider the Franciscans, the Amish, or Buddhist monks. Their communities exist with varying repudiation of personal property, and certain abhorrence to the 'virtue of greed' as it is practiced in contemporary market economies. These intentional communities have survived for significant periods of time, often much longer than our present-day nation-states. The

lifestyles they live tend not only to be practical, but durable.

If we consider the Benedictine monastic communities we reach back for the better part of two millennia. Their organized community life has not only outlasted any western political organization, but in the minds of many scholars, has been the vital "remnant" that preserved western civilization with the collapse of the Roman Empire.

In another way, the 'ethic of sharing' is still strongly with us in our contemporary economy. Consider the risk-sharing ventures of Healthcare insurance. Or any of the no-fault compensation programs: workers' compensation, no-fault car insurance, the various house and life insurances. Even our 'welfare' programs such as minimum income allowances, affordable housing programs etc. Our society chooses to share risks, and jump to the aid of the less-lucky who end up on hard straights. These programs are not surviving because they work in theory alone, but because they are eminently practical.

At the limit, even the charge against Soviet Russia is rather simplistic. Indeed the society collapsed after less than a century of existence, but this time-frame includes a couple of

generations. At times, the system fed millions of bellies and provided shelter for an enormous population. To be blithe: it launched Sputnik, built an array of incredibly technologically advanced military equipment, erected a variety of infrastructure modernizations, and nearly kept-pace with the cutting edge "advances" in the scientific world. To top it off, it became nearly the greatest hockey playing nation on earth. This final observation, as we Canadians know, is what really counts in measuring the "greatness" of a civilization anyway.

The ultimate demise of soviet communism is in my mind related to two things: its reliance on industrialization, and its denial of essential human needs such as beauty.

The critique against industrialism has been, and will be levied against all "developed" nations. In my mind rightly so. Our current development model, just like the Soviet model, is premised on an injurious manipulation of the natural order in an attempt to 'maximize production'. We treat living things as if they were machines, and we are (more or less) surprised when the global ecosystem coughs and spurts like the steel and fuel machines that we manufacture. Since this element of Soviet Marxism is

shared with Western Capitalism, it cannot explain the downfall of the communist block.

I think that the soul-crushing theory of "dialectic materialism" is itself the reason why soviet communism, and any Marxist economy, is doomed to failure. Simply supplying people with food, shelter and clothing is not enough. Marxism's denial of the beautiful, the spiritual, the sublime, is ultimately the denial of the human. Though Marxism imported the great Biblical dictum "he who does not work, shall not eat" it completely denied its corollary "man cannot live on bread alone".

In my brief travels to Eastern Germany and China, I was struck with the enthusiastic denial of beauty in the communist-era buildings. Concrete cubes designed purely for utilitarian ends. Contrast these with the lingering remnants of great Cathedrals, picturesque mountainside Daoist monasteries and ancient palaces.

If communism is indeed destined for failure, it is not because "sharing" does not work, but because philosophical materialism is repugnant to the human condition ■

THE SUNSHINE ARTICLE

by Alison Glaser (Law II)

My husband and I, I feel, balance each other out nicely. He is neat; I am messy. I am organized, he is not. I am anal, he is relaxed. And finally, I always do everything in advance (in a slightly anal retentive fashion) and he procrastinates. This, frankly, drives me slightly crazy. I will often find myself crying in anguish "what is the point of waiting until the last minute when you can get it over with right away and then not have to think about it!!!!" However, this complaint I have makes me a big fat hypocrite, because when it comes to paying bills, sure I pay them right away, but when it comes to school work, whoa, do I procrastinate!

I feel sure that I am not the only one around here who procrastinates when it comes to school work. Because seriously, there are times when sleep seems so much more important than doing some readings. An then the next day, having dinner seems more important. And then the next day Grey's Anatomy seems more important and then it's the weekend and suddenly you have 1000 pages of reading to do and it is horrible, and it is over-

whelming, so you put it off and think "ah well, I'll read that before the exam", which of course you won't and then you will have missed something crucial and will fail out of law school!!! Ok ok, clearly this will not happen, but it is the fear. The problem with procrastinating is that the more you put it off, the more insurmountable the task seems, so the less inclined you are to tackle said horrible task. Here are some suggestions, taken from St. Joseph's University's counseling website (who's link was on the McGill Counseling website) available at <http://ub-counseling.buffalo.edu/vpc.html>, on how to beat procrastination:

1. Recognize when you are procrastinating. Often we doodle, dawdle, daydream or otherwise side-track ourselves without realizing it. Become aware of your favorite procrastination tactics and learn to catch yourself as soon as you wander off.
2. Break inertia. Ever watch a freight train start to move? That first forward jolt takes the most energy; keeping the train rolling is much easier. Do some small things to get

your task started (e.g., write the first sentence of the term paper). Then pace yourself. You'll probably find it's much easier to keep rolling along at a comfortable clip.

3. Divide your project into small, manageable pieces. Take one step at a time and don't worry about reaching the ultimate goal. Make use of small chunks of time. Writing a few lines of that paper before dinner may inspire you to return to the paper later.

4. Set reachable sub-goals that are specific. For instance, "Read 20 pages of Chapter 5 by 8:00 tonight," rather than "Do some studying later." This helps you gain a sense of accomplishment from having reached your goal.

5. Don't sabotage yourself. Set up your environment with as few distractions as possible. Face it, getting down to an unpleasant task is tough enough without giving yourself easy excuses to procrastinate. Arrange your work space just the way you like it, and work at times when you have peak energy.

6. Reward your non-pro-

crastinating behavior. So you finally made a dent in that chore you've been putting off. Great! Give yourself a little something special as a reward.

7. Enjoy your freedom. When you complete an unpleasant task, take a moment to feel how nice it is to have it over and done with. No more nagging yourself to do the job, no more feeling like there's a weight on your shoulders. ENJOY!

Speaking of McGill counseling, this service offers free workshops for students on a variety of issues, including test anxiety, assertiveness training, meditation based stress management, and overcoming procrastination. To get more information, you can check out their current workshop website at <http://www.mcgill.ca/counseling/workshops/>.

Please note: I, in flagrant disregard of my own advice, handed this article in to the lovely Quid staffers a full 24 hours late. Apologies, and you can be sure that I am currently hanging my head in shame■

RADICAL DOGMATISM: AN OPEN LETTER TO THE MCGILL RADICAL LAW COMMUNITY

By Léonid Sirota(Law II)

We can never be sure that the opinion we are endeavouring to stifle is a false opinion; and if we were sure, stifling it would be an evil still.

John Stuart Mill

Dear members of the McGill Radical Law Community,

I want to begin by saying that I was disturbed, and indeed shocked, upon seeing the following ad, which you

“endorsed”, in the Notice Board of September 22nd.

17. OPPOSE ANTI-UNION SPEAKER AT MCGILL

Monday September 25, 2006

4.30pm, meet at Gert's Pub (Basement of the Shatner building, 3480 McTavish St.)

Len Shackleton, the Dean of the Westminster Business School will be giving a presentation called 'From Thatcher to Blair - How the Decline of Unions Unleashed British Economic Growth.'

*To reserve seats inside the lecture contact (514) 273-0969

*To disrupt this meeting, meet at Gert's Pub at 4.30pm. Bring noise makers and wear red shirts.

[...]

-Endorsed by the McGill Radical Law Community

It was disquieting to realise that in this democratic country, within an institution that is supposed to advance the values such as open-mindedness, respect and freedom of thought and expression, there could still exist a “community” advocating suppression of an opinion it disagrees with. After my initial emotions of consternation and, quite frankly, disgust, receded, I began to wonder what had pushed you to reject these democratic values in favour of what to me looks very much like totalitarianism.

Looking for an answer, I found the description of your organisation on the LSA's website (<http://www.law.mcgill.ca/lsa/studentclubs.htm>). It has not been very helpful. You write there that you “resist liberal legal discourse and challenge accepted norms in legal theory and practice in so far as they maintain and re-create relationships of domination and subordination in society.” You further purport to “embrace modes of social organization based on direct and participatory democracy that provide the means for self-determination and grassroots empowerment.” Of course, freedom of expression and preference for debate over dogmatism lie at the heart of ‘liberal legal discourse’ and indeed of liberalism. Yet is this reason enough to reject them in favour of a dogmatism that denies other people the right to adhere to and publicise opinions with which you disagree? One wouldn't think so from reading your own statement, at least not unless you can explain how affording every opinion an opportunity to be heard “maintain[s] and re-create[s] relationships of domination and subordination in society.” I might be utterly brainwashed or simply stupid, but it seems to me that it has exactly the opposite effect. I also fail to see how “direct and participatory democracy” can benefit from restrictions or even a suppression of a liberty as inherent to any democracy as that to speak one's mind and how, while denying those who happen not to share your beliefs the possibility to communicate their point of view, you can claim to want to provide us “means for self-determination”. I couldn't help but feel that the description of yourselves that you provided to the LSA is quite inaccurate, to say the least. So I asked myself other questions about your motivations. Having failed to come up with an answer, I now take the opportunity to ask you.

Do you think you can't possibly be wrong, so preventing others from expressing their views doesn't deprive the society of any useful information? Or do you, on the contrary, think that you are so wrong that the only way your theories will be believed is for all others to be silenced out of existence? Are you claiming to have been anointed as arbiters of truth, and if so, by whom? Or do you simply hold us in such contempt that you don't trust to arrive to the correct conclusions if competing positions are allowed to be publicly taken? And finally, if the answer to all of these questions is negative, why are you calling on everyone to deny someone a right to speak and others, a right to hear what he has to say? ■



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